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SHUMAKER & SIEFFERT, P. A.
8425 SEASONS PARKWAY
SUITE 105
ST. PAUL, MN 55125

EXAMINER

STONE, JENNIFER A

ART UNIT PAPER NUMBER

2636

DATE MAILED: 09/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/756,895

Applicant(s)

MCGRATH ET AL.

Examiner

Jennifer A. Stone

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-41 is/are rejected.
- 7) ☒ Claim(s) 9 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>8/3/2004; 8/31/2004; 3/29/2004</u> | 6) <input type="checkbox"/> Other: ____ |

Claim Objections

1. Claim 9 is objected to because of the following informalities: No punctuation at the end of the sentence. Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 32 recites the limitation "the remote computing device" in line 5.

There is insufficient antecedent basis for these limitations in the claims.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 3-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Rockwell (US 6,141,584).

For claim 1, Rockwell discloses a method comprising: establishing a wireless communication session with an external medical device (Fig. 5, items 104, 108, 220; col 5, lns 3-10; col 6, lns 5-9); and sending a command to the external medical device via

the wireless communication session to remotely operate the external medical device (col 6, Ins 13-15; col 13, Ins 1-15; Fig. 7, item 250).

For claim 3, Rockwell discloses sending a command to remotely operate the external medical device comprises sending a command to cause the external medical device to apply a therapy (col 13, Ins 45-65; Fig. 9, items 270, 272, 274, 276, 220, 202, 208).

For claim 4, Rockwell discloses sending a command to remotely operate the external medical device comprises sending a command to cause the external medical device to access a memory included in the external medical device (Fig. 9, item 218; col 14, Ins 5-24).

For claim 5, Rockwell discloses sending a command to remotely operate the external medical device comprises sending a command to cause the external medical device to initiate a data transmission to a remote location (Fig. 3, items 12, 104, 108, 119, 115; col 9, Ins 16-31).

For claim 6, Rockwell discloses receiving an acknowledgement to the command from the external medical device via the wireless communication session (Fig. 11, item 220, 300, call set up; col 16, Ins 63-67; col 17, Ins 5-9).

For claim 7, Rockwell discloses receiving medical event information from the external medical device via the wireless communication session (col 8, Ins 8-15 and 28-32; Fig. 3, items 104, 108).

For claim 8, Rockwell discloses generating a run report based on the received medical event information (col 9, Ins 16-31; Fig. 3, items 115, 119).

For claim 9, the medical event information comprises at least one of an electrocardiogram, a capnogram, a plethysmograph, a heart rate, a blood oxygen saturation, and a blood pressure (col 1, Ins 44-51; col 8, Ins 8-15).

For claim 10, the medical event information comprises at least one of a therapy delivered to the patient, and a time at which the therapy was delivered to the patient (col 10, Ins 10-15; Fig. 4, event markers).

For claim 11, Rockwell discloses a graphical user interface, wherein an operator interacts with the graphical user interface to specify the command (col 11, Ins 29-31; col 16, Ins 63-67; Fig. 11, item 214).

For claim 12, a wireless communication session comprises detecting the external medical device (col 8, Ins 41-51; Fig. 5, items 220).

For claim 13, Rockwell discloses a wireless communication session further comprises establishing the wireless communication session in accordance with one of a Bluetooth specification set, an Infrared Data Association (IrDA) specification set, an 802.11A specification set, an 802.11B specification set and an 802.11G specification set (col 5, Ins 5-17).

For claim 14, Rockwell discloses the external medical device comprises at least one of an external defibrillator, an automated external defibrillator (AED), a personal monitor, a drug delivery device, and an automated chest thumper (Fig. 5, item 108).

6. Claims 15-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Rockwell (US 6,141,584).

For claim 15, Rockwell discloses a method comprising: establishing a wireless communication session between an external medical device (Figs. 9 and 11, item 10) and a remote device (Fig. 5, items 104, 108, 220; col 5, lns 3-10; col 6, lns 5-9; Fig. 9, items 278); receiving a command from the remote device (Fig. 7, item 250; Fig. 11, 299) via the wireless communication session; and carrying out the command to operate the external medical device (col 6, lns 13-15; col 13, lns 1-15; col 13, lns 45-48).

For claim 16, Rockwell discloses carrying out the command comprises at least one of a changing display, applying a therapy, configuring the therapy, assessing a memory, initiating collection of vital signs, initiating data transmission to a remote location and updating medical event information (col 10, lns 10-15; col 9, lns 20-30).

For claim 17, Rockwell discloses sending medical event information to the remote device via the wireless communication session (col 14, lns 46-53; Fig. 9, items 10, 274; col 15, lns 3-10; Fig. 10, items 10, 292).

For claim 18, sending an acknowledgement of the received command to the remote device via the wireless communication medium (Fig. 11, item 220, 300, call set up; col 16, lns 63-67; col 17, lns 5-9).

For claim 19, establishing a wireless communication session comprises detecting the remote device (Fig. 11, call set up; col 16, lns 64-67; col 17, lns 5-10).

For claim 20, the claim is interpreted and rejected for the same reasons as stated in the rejection of claim 13 as stated above.

For claim 21, establishing a wireless communication session with a remote device comprises establishing a wireless communication session with one of a

computer, a personal digital assistant (PDA), a cellular telephone, and an external medical device (col 10, lns 30-35; Fig. 3, items 113, 104, 108).

7. Claims 22-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Rockwell (US 6,141,584).

For claim 22, Rockwell discloses a device comprising a transceiver (Fig. 9, 10, items 220, 270, 298) to establish a wireless communication session with an external medical device (Fig. 9, 10, item 10); and a processor (Fig. 9, 10, items 206, 274, 298) to control the transceiver to send a command to the medical device via the wireless communication session to remotely operate the external medical device (col 11, lns 18-25; col 13, lns 60-65).

For claim 23, Rockwell discloses the transceiver configured to receive medical event information via the wireless communication session, and the processor is configured to generate a run report based on the received medical event information (Fig. 9, 10, items 298, 220, 206, 270).

For claim 24, Rockwell discloses an input-output device (Fig. 9, 10, items, 214, 206).

For claim 25, Rockwell discloses the processor configured to present a graphical user interface via the input-output device (Fig. 9, 10, item 214; col 11, ln 3; col 12, lns 4-6 and 30, 31).

For claim 26, the input-output device comprises at least one of a mouse, a keyboard, a touchscreen, a CRT, and LED display, an LCD display, a microphone, and a speaker (Fig. 9, items 214, 22, 232, 234).

For claim 27, the transceiver is configured to detect the external medical device (col 11, Ins 17-21).

8. Claims 28-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Rockwell (US 6,141,584).

For claim 28, Rockwell discloses an external medical device comprising (Fig. 9, item 10): a transceiver (Fig. 9, items 220, 270) to establish a wireless communication session with a remote device and to receive a command from the remote device (col 11, Ins 17-20); and a processor to carry out the command to operate the external medical device; col 10, Ins 50-56). The controller is considered a processor because it processes signals to operate the defibrillation shock.

For claim 29, Rockwell discloses a sensor to sense medical data, the sensor comprising at least one of a temperature sensor, a microphone, an ECG monitor, an oxygen sensor, a carbon dioxide sensor, a respirator sensor, a blood pressure monitor, a twelve-lead electrode set, a five-lead electrode set, and a three-lead electrode set (col 11, Ins 64-67; Fig. 9, 10, item 202).

For claim 30, the processor is configured to generate medical event information as a function of the sensed medical data (col 11, Ins 17-20) and to control the transceiver (Fig. 9, 10, item 220) to send the medical event information to the remote device via the wireless communication session (Fig. 9, 10, items 270, 298; col 14, Ins 11-18).

For claim 31, the device comprises at least one of an electrocardiograph, a capnograph, a plethysmograph, a heart rate monitor, a temperature monitor, a blood

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oxygen monitor, a blood pressure monitor, an external defibrillator, an automated external defibrillator (AED), a drug delivery device, and an automated chest thumper (Fig. 5, item 108).

9. Claims 32-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Rockwell (US 6,141,584).

For claim 32, Rockwell discloses a system comprising: an external medical device; and a remote device (Fig. 5, item 104), wherein the external medical device (Fig. 108) is configured to carry out commands sent via a wireless communication session with the remote computing device (col 8, lns 40-50).

For claim 33, the external medical device comprises at least one of an electrocardiograph, a capnograph, a plethysmograph, a heart rate monitor, a temperature monitor, a blood oxygen monitor, a blood pressure monitor, an external defibrillator, an automated external defibrillator (AED), a drug delivery device, and an automated chest thumper (Fig. 5, item 108).

For claim 34, the remote device comprises at least one of a computer, a personal digital assistant (PDA), a cellular telephone, and a second external medical device (col 10, lns 30-35; Fig. 3, items 113, 104, 108).

10. Claims 35 and 36 are rejected under 35 U.S.C. 102(b) as being anticipated by Rockwell (US 6,141,584).

For claim 35, Rockwell discloses a computer-readable medium comprising instructions for causing a programmable processor to: control a transceiver to establish a wireless communication session with an external medical device (col 14, lns 11-18;

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Fig. 9, items 10, 278); and send a command to the external medical device via the wireless communication session to remotely operate the external medical device (col 13, Ins 60-65). The computer is considered a processor because it acquires and compares expected data values.

For claim 36, the instructions further cause the processor to generate a run report based on medical event information received from the external medical device via the wireless communication session (col 14, Ins 46-54).

11. Claims 37, 39-41 are rejected under 35 U.S.C. 102(b) as being anticipated by Rockwell (US 6,141,584).

For claim 37, Rockwell discloses a computer-readable medium comprising instructions (col 15, Ins 36-46; Fig. 10, items 290, 292, 218) for causing a programmable processor to: control a transceiver (Fig. 10, item 220) to establish a wireless communication session with a remote device (Fig. 10, item 296); and carry out a command received from the remote device via the wireless communication session (col 15, Ins 1-9).

For claim 39, the instruction causing the processor to carry out a command further causes the processor to apply a therapy (col 15, Ins 3-7, 11-15, and 22-24).

For claim 40, the instruction causing the processor to carry out a command further cause the processor to initiate a data transmission to a remote location (col 15, Ins 12-15).

For claim 41, the instructions further cause the processor to generate medical event information as a function of medical data sensed via a sensor (Fig. 10, items 202,

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208) and to control the transceiver (10, item 220) to send the medical event information to the remote device via the wireless communication session (col 15, Ins 3-7, 11-15, and 22-24)..

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rockwell (US 6,141,584).

Rockwell discloses sending a command to operate the external medical device comprises sending a command to change a display presented by the external medical device (col 6, Ins 16-19; col 11, Ins 3-7; col 12, Ins 50-54; Fig. 8, items 214, 240, 242, 244, 234). Even though Rockwell doesn't disclose a command to change a display remotely, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to remotely change a display, such as on the user interface, in order to acknowledge numerous test results on the user interface display (col 14, Ins 54-61; col 15, Ins 12-15; Fig. 10, items 206, 214, 220, 298).

14. Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rockwell (US 6,141,584).

The claim is interpreted and rejected for the same reasons as stated in the rejection of claim 2 as stated above.

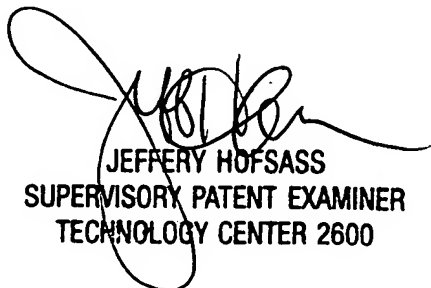
Conclusion

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer A Stone whose telephone number is (571) 272.2976. The examiner can normally be reached on M-F from 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Hofsass, can be reached at (571) 272.2981. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jennifer Stone
September 6, 2005


JEFFERY HOFSSASS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600